

Instructions for Completing Petition for a Nonimmigrant Worker Form I-129



Instructions for Form I-129

Purpose Of This Form.

This form is for an employer to petition for an alien to come to the U.S. temporarily to perform services or labor, or to receive training, as an H-1A, H-1B, H-2A, H-2B, H-3, L-1, O-1, P-2, or Q nonimmigrant worker.

This form is also for an employer to petition for an extension of stay or change of status for an alien as an E-1, E-2, R-1 or TC nonimmigrant. A petition is not required to apply for an E-1, E-2 or R-1 nonimmigrant visa or admission as a TC nonimmigrant. A petition is only required to apply for a change to such status or an extension of stay in such status.

This form consists of a basic petition, and different supplements that apply to each specific classification.

Who May File.

General. A U.S. employer may file to classify an alien in any nonimmigrant classification listed below. A foreign employer may file for certain classifications as indicated in the specific instructions.

Agents. A U.S. individual or company in business as an agent may file for types of workers who are traditionally self-employed or who traditionally use an agent to arrange short-term employment with numerous employers. A petition filed by an agent must include a complete itinerary of services or engagements, including dates, names and addresses of the actual employers, and the locations where the services will be performed. The agent must guarantee the wage offered and the other terms and conditions of employment by contract with the alien(s).

Including more than one alien in a petition. Aliens who will apply for their visas at the same consulate or, if they do not need visas, will enter at the same port of entry may be included in one petition filed by an employer or agent in the following classifications if the dates of employment are the same:

- H-1B if they are members of the same entertainment group or athletic team (accompanying aliens must be filed for on a separate petition);
- H-1B accompanying aliens if they will accompany the same H-1B or same H-1B group of artists, entertainers or athletes for the same period of time, in the same occupation, and in the same location(s);
- H-2A if they are included on the same labor certification and will perform the same duties;
- H-2B if they are included on the same labor certification and will perform the same duties;
- H-3 if they will receive the same training;

- P-2 if they are members of the same group (accompanying aliens must be filed for on a separate petition);
- P-2 accompanying aliens if they will accompany the same P-2 alien or group for the same period of time, in the same occupation, and in the same location(s);
- Q if they will be involved in the same international cultural exchange program.

Multiple locations. A petition for alien(s) to perform services or labor or receive training in more than one location must include an itinerary with the dates and locations where the services or training will take place.

Unnamed aliens. All aliens in a petition for an extension of stay or change of status must be named in the petition. All aliens included in any other petition must be named except:

- an H-2A petition for more than one worker may include unnamed aliens if they are unnamed on the labor certification;
- an H-2B petition for more than one worker may include unnamed aliens in emergent situations where you establish in the petition that you cannot yet provide names due to circumstances which you could not anticipate or control.

Where some or all of the aliens are not named, specify the total number of unnamed aliens and total number of aliens in the petition. Where the aliens must be named, petitions naming subsequent beneficiaries may be filed later with a copy of the same labor certification. Each petition must reference all previously filed petitions using that certification.

General Filing Instructions.

Complete the basic form and relating supplement. Indicate the specific classification you are requesting. Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If the answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item to which the answer refers. You must file your petition with the required Initial Evidence. The petition must be properly signed and filed with the proper fee. Submit the petition in duplicate if you check block "a" or "b" in question 4 of Part 2 on the form.

Classification; Initial Evidence.

These instructions are divided into two parts. The first looks at classifications which require a petition for an initial visa or entry and for any extension or change of status. The second looks at those classifications which only require a petition for a change of status or extension of stay.

Petition always required: The following classifications always require a petition. A petition for new or concurrent employment or for extension where there is a change in previously approved employment must be filed with the initial evidence listed below, and with the initial evidence required by the separate instructions for a change of status or extension of stay. However, a petition for an extension based on unchanged, previously approved employment need only be filed with the initial evidence required in the separate extension of stay instructions.

H-1A. An H-1A is an alien coming to perform services as a registered professional nurse. The petition must be filed by a U.S. employer that provides health care services (including nursing contractors), and must be filed with:

- evidence the alien has a full and unrestricted license to practice professional nursing in the country where he or she obtained nursing education, or that the nursing education was received in the U.S. or Canada; evidence the alien has either:
 - passed the test given by the Commission on Graduate of Foreign Nursing Schools (CGFNS),
 - a permanent license to practice professional nursing in the state of intended employment, or
 - a permanent license to practice professional nursing in any state or territory of the U.S. and has temporary authorization to practice professional nursing in the state of intended employment;
- evidence the alien is fully qualified and eligible under the laws of the state or territory of intended employment to work as a professional nurse immediately after entry;
- a statement indicating you intend to employ the alien solely as a registered professional nurse; and
- a copy of the Department of Labor's current notice of acceptance of the filing of your attestation on Form ETA 9029.

H-1B. An H-1B is an alien coming temporarily to perform services in a specialty occupation. A specialty occupation is one which requires the theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation and requires completion of a specific course of education culminating in a baccalaureate degree in a specific occupational specialty. Write **H-1B1** in the classification requested block. The petition must be filed by the U.S. employer, and must be filed with:

- an approved labor condition application from the Department of Labor;
- evidence the proposed employment qualifies as within a specialty occupation;
- evidence the alien has the required degree by submitting either:

- a copy of the person's U.S. baccalaureate or higher degree which is required by the specialty occupation,
- a copy of a foreign degree and evidence it is equivalent to the U.S. degree, or
- evidence of education and experience which is equivalent to the required U.S. degree;
- a copy of any required license or other official permission to practice the occupation in the state of intended employment; and
- a copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed.

H1-B. An H-1B is also an alien coming to perform services of an exceptional nature relating to a cooperative research and development project administered by the Department of Defense. A U.S. employer may file the petition. Write **H-1B2** in the classification requested block. It must be filed with:

- a description of the proposed employment and evidence the services and project meet the above conditions; and
- a statement listing the names of all aliens who are not permanent residents who have been employed on the project within the past year, along with their dates of employment.

H-1B. An H-1B is also an artist, entertainer or fashion model who has national or international acclaim and recognition for achievements, individually or, in the case of entertainers, as part of a group, to be employed in a capacity requiring someone of distinguished merit and ability. (See the separate instructions for accompanying personnel.) A U.S. employer or foreign employer may file the petition. Write **H-1B3** in the classification requested block. It must be filed with:

- copies of evidence the alien or group is nationally or internationally recognized in the discipline by submitting at least 3 different types of documentation showing that the group:
 - has performed and will perform as a starring or leading entertainment group in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, or contracts,
 - has achieved national or international recognition and acclaim for outstanding achievement in their field as evidenced by reviews in major newspapers, trade journals, magazines, or other published material,
 - has received significant national or international awards or prizes for outstanding achievement in their field,

- has performed and will perform services as a leading or starring group for organizations and establishments that have a distinguished reputation,
- has a record of major commercial or critically acclaimed successes, as evidenced by such indicators as ratings, or standing in the field, box office receipts, record, cassette, or video sales, and other achievements in the field as reported in trade journals, major newspapers, or other publications,
- has received significant recognition for achievements from organizations, critics, government agencies or other recognized experts in the field,
- commands a high salary or other substantial remuneration for services, evidenced by contracts or other reliable evidence;
- copies of evidence the services to be performed require a person of distinguished merit and ability and either:
 - involve an event, production or activity which has a distinguished reputation; or
 - the services are as a lead or starring participant in a distinguished activity for an organization or establishment that has a distinguished reputation or record of employing persons of distinguished merit and ability.

H-1B. An H-1B is also an alien coming temporarily to perform as an artist or entertainer, individually or as part of a group, in a unique or traditional art form. (See the separate instructions for accompanying personnel.) A U.S. employer or foreign employer may file the petition. Write **H-1B4** in the classification requested block. It must be filed with:

- a description of the proposed activities and evidence they constitute a unique or traditional art form;
- affidavits, testimonials or letters from recognized experts attesting to the authenticity and excellence of the skills of the alien or group in presenting the unique or traditional art form and explaining the level of recognition accorded the alien or group in the native country and the U.S.;
- copies of evidence most of the performances or presentations will be culturally unique events sponsored by educational, cultural, or governmental agencies; and either:
 - an affidavit or testimonial from the ministry of culture, USIA Cultural Affairs Officer, the academy for the artistic discipline, a leading scholar, a cultural institution, or a major university in the alien's own country or from a third country,

- a letter from a U.S. expert who has knowledge in the particular field, such as scholar, arts, administrator, critic, or representative of a cultural organization or government agency, or

a letter or certification from a U.S. government cultural or arts agency such as the Smithsonian Institution, the

- National Endowment for the Arts, the National Endowment for the Humanities, or the Library of Congress.

H-1B. An H-1B is also an alien coming temporarily to perform at a specific athletic competition as an athlete, individually or as part of a group or team, at a nationally or internationally recognized level of performance. (See the separate instructions for accompanying personnel.) A U.S. employer or foreign employer may file the petition. Write **H-1B5** in the classification requested block. The petition must be filed with:

- a copy of the contract with a major U.S. sports league or team or contract in an individual sport commensurate with national or international recognition in that sport.
- copies of evidence of at least 2 of the following:
 - participation to a substantial extent in a prior season with a major U.S. sports league,
 - participation in international competition with a national team,
 - participation to a substantial extent in a prior season for a U.S. college or university in intercollegiate competition,
 - a written statement from an official of a major U.S. sports league or an official of the governing body of the sport detailing, how the alien or team is nationally or internationally recognized,
 - a written statement from a member of the sports media or a recognized expert in the sport detailing how the alien or team is nationally or internationally recognized,
 - the individual or team is ranked if the sport has national or international rankings, or
 - the alien or team has received a significant honor or award in the sport.

H-1B Accompanying Support Personnel. Accompanying support personnel are highly skilled aliens coming temporarily as an essential and integral part of the competition or performance of a **H-1B** artist, entertainer or athlete because they perform support services which cannot be readily

performed by a U.S. worker and which are essential to the successful performance or services by the H-1B. The aliens must each also have significant prior work experience with the H-1B alien. Write **H-1BS** in the classification requested block on the petition. The petition must be filed in conjunction with the employment of a H-1B alien. The petition must be filed with:

- a statement describing the alien's prior and current essentiality, critical skills and experience with the H-1B;
- statements or affidavits from persons with first hand knowledge that the alien has had substantial experience performing the critical skills and essential support services for the H-1B; and
- a copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed.

H-2A. An H-2A is an alien coming temporarily to engage in temporary or seasonal agricultural employment. The petition must be filed by a U.S. employer or an association of U.S. agricultural producers named as a joint employer on the certification. The petition must be filed with:

- a single valid temporary agricultural labor certification, or, if U.S. workers do not appear at the worksite, a copy of the Department of Labor's denial of a certification and appeal, and evidence that qualified domestic labor is unavailable; and
- copies of evidence that each named alien met the minimum job requirements stated in the certification when it was applied for.

H-2B. An H-2B is an alien coming temporarily to engage in non-agricultural employment which is seasonal, intermittent, to meet a peak load need, or for a one-time occurrence. The petition must be filed by a U.S. employer with either:

- a temporary labor certification from the Department of Labor, or the Governor of Guam if the proposed employment is solely in Guam, indicating that qualified U.S. workers are not available and that employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers, or
- a notice from such authority that such certification cannot be made, along with evidence of the unavailability of U.S. workers and of the prevailing wage rate for the occupation in the U.S., and evidence overcoming each reason why the certification was not granted; and
- copies of evidence, such as employment letters and training certificates, that each named alien met the minimum job requirements stated in the certification when it was applied for.

H-3. An H-3 is an alien coming temporarily to participate in a special education training program in the education of children with physical, mental, or emotional disabilities. Custodial care of children must be incidental to the training program. The petition must be filed by the U.S. employer with:

- a description of the training, staff and facilities, evidence the program meets the above conditions, and details of the alien's participation in the program; and
- evidence the alien is nearing completion of a baccalaureate degree in special education, or already holds such a degree, or has extensive prior training and experience in teaching children with physical, mental, or emotional disabilities.

H-3. An H-3 is also an alien coming temporarily to receive other training from an employer in any field other than graduate education or training. The petition must be filed by the U.S. employer with:

- a detailed description of the structured training program, including the number of classroom hours per week and the number of hours of on-the-job training per week;
- a summary of the prior training and experience of each alien in the petition; and
- an explanation of why the training is required, whether similar training is available in the alien's country, how the training will benefit the alien in pursuing a career abroad, and why you will incur the cost of providing the training without significant productive labor.

L-1. An L-1 is an alien coming temporarily to perform services in a managerial or executive capacity, for the same corporation or firm, or for the branch, subsidiary or affiliate of the employer which employed him or her abroad for one continuous year within the three-year period immediately preceding the filing of the petition, in an executive, managerial or specialized knowledge capacity. Write **L-1A** in the classification requested block on the petition.

L-1. An L-1 is also an alien coming temporarily to perform services which entail specialized knowledge, for the same corporation or firm, or for the branch, subsidiary or affiliate of the employer which employed him or her abroad for one continuous year within the three year period immediately preceding the filing of the petition, in an executive, managerial or specialized knowledge capacity. Specialized knowledge is special knowledge of the employer's product or its application in international markets or an advanced level of the knowledge of the employer's processes and procedures. Write **L-1B** in the classification requested block on the petition.

L Petition Requirements. A U.S. employer or foreign employer may file the petition, but a foreign employer must have a legal business entity in the U.S. The petition must be filed with:

- evidence of the qualifying relationship between the U.S. and foreign employer based on ownership and control, such as an annual report, articles of incorporation, financial statements or copies of stock certificates;
- a letter from the alien's foreign qualifying employer detailing his/her dates of employment, job duties, qualifications and salary, demonstrating that the alien worked for the employer for at least one continuous year in the three-year period preceding the filing of the petition in an executive, managerial or specialized knowledge capacity; and
- a description of the proposed job duties and qualifications and evidence the proposed employment is in an executive, managerial or specialized knowledge capacity.

If the alien is coming to the U.S. to open a new office, also file the petition with copies of evidence the business entity in the U.S.:

- already has sufficient premises to house the new office;
- has or upon establishment will have the qualifying relationship to the foreign employer;
- has the financial ability to remunerate the alien and to begin doing business in the U.S., including evidence about the size of the U.S. investment, the organizational structure of both firms, the financial size and condition of the foreign employer, and, if the alien is coming as an L-1 manager or executive to open a new office, such evidence must establish that the intended U.S. operation will support the executive or managerial position within one year.

Blanket L petition. An L blanket petition simplifies the process of later filing for individual L-1A workers and L-1B workers who are specialized knowledge professionals, which are persons who possess specialized knowledge employed in positions which require the theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation and require completion of a specific course of education culminating in a baccalaureate degree in a specific occupational specialty.

A blanket L petition must be filed by a U.S. employer who will be the single representative between INS and the qualifying organizations. Write **LZ** in the classification requested block. Do not name an individual employee. File the petition with copies of evidence that:

- you and your branches, subsidiaries and affiliates are engaged in commercial trade or services;
- you have an office in the U.S. that has been doing business for one year or more;
- you have 3 or more domestic and foreign branches, subsidiaries, or affiliates;
- you and your qualifying organizations have obtained approved petitions for at least 10 "L" managers, executives or specialized knowledge professionals during the previous 12 months, have U.S. subsidiaries or affiliates with combined annual sales of at least 25 million dollars, or have a U.S. work force of at least 1,000 employees.

After approval of a blanket petition, you may file for individual employees to enter as an L-1A alien or L-1B specialized knowledge professional under the blanket petition. If the alien is outside the U.S., file Form I-129S. If the alien is already in the U.S., file the I-129 to request a change of status based on this blanket petition. The petition must be filed with:

- a copy of the approval notice for the blanket petition;
- a letter from the alien's foreign qualifying employer detailing his/her dates of employment, job duties, qualifications, and salary for the 3 previous years; and
- if the alien is a specialized knowledge professional, a copy of a U.S. degree, a foreign degree equivalent to a U.S. degree, or evidence establishing the combination of the beneficiary's education and experience is the equivalent of a U.S. degree.

O-1. An O-1 is an alien coming temporarily who has extraordinary ability in the sciences, education or business.

A U. S. employer or foreign employer may file the petition. The petition must be filed with:

- a written consultation with a peer group in the alien's area of ability (see GENERAL EVIDENCE);
- a copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed;
- copies of evidence the services to be performed either:
 - primarily involve a specific scientific or educational project, conference, convention, lecture, or exhibit sponsored by scientific or educational organizations or establishments, or
 - consist of a specific business project that requires an extraordinary executive, manager, or highly technical person due to the complexity of the project;

- evidence the alien has received a major, internationally-recognized award, such as a Nobel Prize, or copies of evidence of at least three of the following:
 - receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor,
 - membership in associations in the field which require outstanding achievements as judged by recognized international experts,
 - published material in professional or major trade publications or newspapers about the alien and his work in the field,
 - participation on a panel or individually as a judge of the work of others in the field or an allied field,
 - original scientific or scholarly research contributions of major significance in the field,
 - authorship of scholarly articles in the field in professional journals or other major media, or
 - evidence the alien commands a high salary or other high remuneration for services.

P-2. A P-2 is an alien coming temporarily to perform as an artist or entertainer, individually or as part of a group, under a reciprocal exchange program between an organization in the U.S. and an organization in another country. (See the separate instructions for accompanying personnel.) The petition must be filed by the sponsoring organization or employer in the U.S. It must be filed with:

- written consultation with an appropriate labor organization (see GENERAL EVIDENCE);
- a copy of the formal reciprocal exchange agreement between the U.S. organization(s) sponsoring the aliens, and the organization(s) in a foreign country which will receive the U.S. artist or entertainers;
- a statement from the sponsoring organization describing the reciprocal exchange, including the name of the receiving organization abroad, names and occupations of U.S. artists or entertainers being sent abroad, length of their stay, activities in which they will be engaged and the terms and conditions of their employment; and
- copies of evidence the aliens and the U.S. artists or entertainers are experienced artists with comparable skills and that the terms and conditions of employment are similar.

P-2 Accompanying Support Personnel. Accompanying support personnel are highly skilled aliens coming temporarily as an essential and integral part of the competition or performance of a P-2, or because they perform support services which cannot be readily performed by a U.S. worker and which are essential to the successful performance or services by the P-2. The aliens must each also have significant prior work experience with the P-2 alien. Write **P-2S** in the classification requested block on the petition. The petition must be filed in conjunction with the employment of a P-2 alien. The petition must be filed with:

- written consultation with a labor organization in the skill in which the alien will be involved (see GENERAL EVIDENCE);
- a statement describing the alien's prior and current essentiality, critical skills and experience with the P-2;
- statements or affidavits from persons with first hand knowledge that the alien has had substantial experience performing the critical skills and essential support services for the P-2, and
- a copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed.

Q. A Q is an alien coming temporarily to participate in an international cultural exchange program approved by the Attorney General for the sharing of the attitude, customs, history, heritage, philosophy, and/or traditions of the alien's country of nationality. The culture sharing must take place in a school, museum, business, or other establishment where the public is exposed to aspects of a foreign culture as part of a structured program. The work component of the program may not be independent of the cultural component, but must serve as the vehicle to achieve the objectives of the cultural component. A U.S. employer or foreign employer may file the petition; however, a foreign employer's petition must be signed by a U.S. citizen or permanent resident employed by the qualified employer on a permanent basis in an executive, managerial, or supervisory capacity for the prior year. File the petition with:

- evidence you:
 - maintain an established international cultural exchange program;
 - have designated a qualified employee to administer the program and serve as liaison with INS;
 - have been doing business in the U.S. for the past two years;

- will offer the alien wages and working conditions comparable to those accorded local domestic workers similarly employed;
- employ at least 5 full-time U.S. citizen or permanent resident workers;
- have the financial ability to remunerate the participant(s), as shown by your most recent annual report, business income tax return, or other form of certified accountant's report;
- catalogs, brochures or other types of material which illustrate that:
 - the cultural component is designed to give an overview of the attitude, customs, history, heritage, philosophy, tradition, and/or other cultural attributes of the participant's home country;
 - the employment or training takes place in a public setting where the sharing of the culture of their country of nationality can be achieved through direct interaction with the American public; and
 - the American public will derive an obvious cultural benefit from the program.

However, if the proposed dates of employment are within, 15 months of the approval of a prior "Q" petition filed by you for the same international cultural exchange program, and that earlier petition was filed with the above evidence of the program, you may submit a copy of the approval notice for that prior petition in lieu of the evidence about the program required above.

Petition only required for alien in the U.S. to change status or extend stay: The following classifications do not require a petition for new employment if the alien is outside the U.S. The alien should instead contact a U.S. Consulate for information about a visa or admission. Use this form to petition for a change of status, concurrent employment, or an extension of stay.

A petition for change of status to one of the classifications described in this part must be filed with the initial evidence listed below and with the initial evidence required by the separate instructions for all petitions involving change of status. A petition for an extension of stay must be filed with the initial evidence listed below and with the initial evidence required by the separate instructions for all petitions for extension. However, a petition for an extension based on unchanged, previously approved employment need only be filed with the the initial evidence required by the separate extension of stay instructions.

E-1. An E-1 is a national of a country with which the U.S. has a treaty of friendship, commerce, and navigation who is coming to the U.S. to engage in substantial trade between the U.S. and the alien's country of nationality. Substantial trade means that your trading activities with the U.S. comprise more than 50% of your total volume of business transactions in the U.S. and that there is a continued course of international trade.

E-2. An E-2 is a national of a country with which the U.S. has a bilateral investment treaty or agreement, who is coming to the U.S. to direct and develop the operations of an enterprise in which he/she has invested or is in the process of investing substantially. A substantial investment is one in which personal funds or assets are put at risk in a real operating enterprise which generates services or goods. You must show that you are able to direct and develop the enterprise by having control over the business. You must also show that the investment is not your main source of income or that the proceeds from the investment are significantly greater than a subsistence income.

An **E-1 or E-2** may also be an employee of a qualified treaty alien or treaty company. If so, the alien must be an executive or manager, an individual with specialized qualifications that are essential to the efficient operation of the employer's business enterprise, a highly trained technician, or start-up personnel (E-2 only).

E Petition requirements. A principal treaty trader or investor or the qualified employer may file the petition. It must be filed with copies of evidence of:

- ownership and nationality, including lists of investors with current status and nationality, stock certificates, certificates of ownership issued by the commercial section of a foreign embassy, and reports from a certified professional accountant (CPA);
- substantial trade if filing for an E-1, including copies of three or more of the following: bills of lading, customs receipts, letters of credit, insurance papers documenting commodities imported, purchase orders, carrier inventories, trade brochures, sales contracts;
- substantial investment if filing for an E-2, including copies of partnership agreements (with a statement on proportionate ownership), articles of incorporation, payments for the rental of business premises or office equipment, business licenses, stock certificates, office inventories (goods and equipment purchased for the business), insurance appraisals, advertising invoices, annual reports, net worth statements from certified professional accountants, business bank accounts containing funds for routine operations, funds held in escrow; or

- if filing for an employee, evidence he/she is a manager or executive, or evidence of special knowledge, skills, training, or education, such as certificates, diplomas or transcripts, letters from employers describing job titles, duties, and the level of education and knowledge required, operators' manuals, and for non-executive/managerial employees, evidence that qualified U.S. workers are not available.

R-1. An R-1 is an alien who, for at least 2 years, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the U.S., coming temporarily to work solely:

- as a minister of that denomination,
- in a professional capacity in a religious vocation or occupation for that organization, or
- in a religious vocation or, occupation for the organization or its nonprofit affiliate.

The petition must be filed by a U.S. employer with:

- a letter from the authorizing official of the religious organization establishing that the proposed services and alien qualify above;
- a letter or letters from the authorizing officials of the religious denomination or organization attesting to the alien's membership in the religious denomination explaining, in detail, the person's religious work and all employment during the past 2 years and the proposed employment; and
- a copy of the tax-exempt certificate showing the religious organization, and any affiliate which will employ the person, is a bona fide nonprofit, religious organization in the U.S. and is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986;

TC. A TC is a Canadian citizen coming to the U.S. temporarily under the provisions of the United States-Canada Free-Trade Agreement. A U.S. employer or a foreign employer may file the petition. File the petition with:

- a letter stating the activity to be engaged in, the purpose of entry, the anticipated length of stay, and the arrangements for remuneration; and
- evidence the alien meets the educational and/or licensing requirements for the profession or occupation.

Change of status.

In addition to the initial evidence for the classification you are requesting, a petition requesting a change of status for an alien in the U.S. must be filed with a copy of the Form I-94, Nonimmigrant Arrival/Departure Record, of the employee(s). [Family members should use Form I-539 to apply for a change of status.] A nonimmigrant who must have a passport to be admitted must keep that passport valid during his/her entire stay. If a required passport is not valid, file a full explanation with your petition.

The following are **not eligible** to change status:

- an alien admitted under a visa waiver program;
- an alien in transit (C) or in transit without a visa (TWOV);
- a crewman (D);
- a fiancé(e) or his/her dependent (K);
- a J-1 exchange visitor whose status was for the purpose of receiving graduate medical training;
- a J-1 exchange visitor subject to the foreign residence requirement who has not received a waiver of that requirement;
- an M-1 student to an H classification if training received as an M-1 helped him/her qualify for H classification.

Extension of stay.

A petition requesting an extension of stay for an employee in the U.S. must be filed with a copy of the Form I-94, Nonimmigrant Arrival/Departure Record, of the employee(s), and a letter from the petitioner explaining the reasons for the extension. [Family members should use Form I-539 to file for an extension of stay.] A nonimmigrant who must have a passport to be admitted must keep that passport valid during his/her entire stay. If a required passport is not valid, file a full explanation with your petition. Where there has been a change in the circumstances of employment, also submit the evidence required for a new petition.

Where there has been no change in the circumstances of employment, file your petition with the appropriate supplement and with your letter describing the continuing employment, and:

- if for H-1A status, submit a current copy of the Department of Labor's notice of acceptance of the petitioner's attestation.
- if for H-1B status, submit an approved labor condition application for the specialty occupation valid for the period of time requested.

- if for H-2B status, submit a labor certification valid for the dates of the extension.
- if for H-2A status, submit a labor certification valid for the dates of the extension unless it is based on a continuation of employment authorized by the approval of a previous petition filed with a certification and the extension will last no longer than the previously authorized employment and no longer than 2 weeks.

General Evidence.

Written consultation. Noted classifications require a written consultation with a recognized peer group, union, and/or management organization regarding the nature of the work to be done and the alien's qualifications before the petition may be approved. To obtain timely adjudication of a petition, you should obtain a written advisory opinion from an appropriate peer group, union, and/or management organization and submit it with the petition.

If you file a petition without the advisory opinion, it is advisable for you to send a copy of the petition and all supporting documents to the appropriate organization when you file the petition with INS, and indicate in the petition which organization you sent it to. Explain to the organization that they will be contacted by INS for an advisory opinion. If an accepted organization does not issue an advisory opinion within a given time period, a decision will be made based upon the evidence of record. If you do not know the name of an appropriate organization with which to consult, please indicate so on the petition. However, it will require a substantially longer period to process a petition filed without the actual advisory opinion.

Translations. Any foreign language document must be accompanied by a full English translation which the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this petition, and you choose to send us the original, we may keep that original for our records.

H-1B and H-2B Notice.

The Immigration and Nationality Act makes a petitioner liable for the reasonable cost of return transportation for an H-1B or H-2B alien who is dismissed before the end of the authorized employment.

When To File.

File your petition as soon as possible, but no more than 4 months before the proposed employment will begin or the extension of stay is required. If you do not submit your petition at least 45 days before the employment will begin, petition processing, and subsequent visa issuance, may not be completed before the alien's services are required or previous employment authorization ends.

Where to File.

Mail this petition to the appropriate INS Service Center, except that:

- if the person is applying for admission as an L-1 under the U.S.-Canada Free Trade Agreement, the petition may be filed at the port of entry when the person applies for entry;
- if the services or training will be solely in Guam, file the petition at the local INS office there.
- if the services or training will be solely in the U.S. Virgin Islands, file the petition at the local INS office there.

In any other instance, mail this petition to the Service Center indicated below. If the services or training will be in more than one place, mail the petition to the Service Center with jurisdiction over the first work or training site. A blanket L petition should be mailed to the Service center with jurisdiction over the petitioner's location.

If the work or training will be in:

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, U.S. Virgin Islands, Vermont, Virginia, or West Virginia; mail your petition to U.S. INS, Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479.

If the work or training will be in:

Arizona, California, Hawaii, Nevada, or the Territory of Guam; mail your petition to U.S. INS, California Service Center, P.O. Box 10129, Laguna Niguel, CA 92607-1012.

If the work or training will be in:

Alaska, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin or Wyoming; mail your petition to U.S. INS Nebraska Service Center, P.O. Box 87129, Lincoln, NE 68501-7129.

If the work or training will be in:

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, South Carolina, Oklahoma, Tennessee or Texas; mail your petition to U.S. INS Texas Service Center, P.O. Box 852211, Mesquite, TX 75185-2211.

Fee.

The fee for this petition is a base fee of \$110.

The fee must be submitted in the exact amount. It cannot be refunded. **DO NOT MAIL CASH.** All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the U.S. Virgin Islands, and are filing this application in the U.S. Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information.

Acceptance. Any petition that is not signed, or is not accompanied by the correct fee, will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. A petition is not considered properly filed until accepted by the Service.

Initial processing. Once a petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your petition.

Requests for more information or interview. We may request more information or evidence, or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. The decision on a petition involves separate determinations of whether you have established that the alien is eligible for the requested classification based on the proposed employment, and whether he or she is eligible for any requested change of status or extension of stay. You will be notified of the decision in writing.

Penalties.

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice.

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 U.S.C. 1154, 1184 and 1258. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice.

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 30 minutes to learn about the law and form; (2) 25 minutes to complete the form; and (3) 60 minutes to assemble and file the petition; for a total estimated average of 115 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4307r, Washington, D.C. 20536; OMB No. 1115-0168.